

1                               BEFORE THE  
2                               ILLINOIS COMMERCE COMMISSION

3  
4                               BENCH SESSION  
                             (PUBLIC UTILITY)

5  
6                               Chicago, Illinois  
                             Tuesday, November 23, 2010

7  
8               Met, pursuant to notice, at 10:30 a.m. in  
9       N801, Eighth Floor, 160 North LaSalle Street,  
10      Chicago, Illinois.

11  
12      PRESENT:

13           MANUEL FLORES, Acting Chairman

14           LULA M. FORD, Commissioner

15           ERIN M. O'CONNELL-DIAZ, Commissioner

16           SHERMAN J. ELLIOTT, Commissioner  
             via videoconference

17           JOHN T. COLGAN, Acting Commissioner  
18           via videoconference

19  
20  
21      SULLIVAN REPORTING COMPANY, by  
         Alisa A. Sawka, CSR  
22      License No. 084-004588

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PROCEEDINGS

ACTING CHAIRMAN FLORES: Pursuant to the provisions of the Illinois Open Meetings Act, I now convene a regular open meeting of the Illinois Commerce Commission. With me in Chicago are Commissioners Ford and O'Connell-Diaz, with us in Springfield are Commissioners Elliott and Colgan. I am Chairman Flores. We have a quorum.

Before moving into the agenda according to Part 1700.10 of Title 2 of the Administrative Code, this is the time we allow for members of the public to address the Commission. Members of the public wishing to address the Commission must notify the Chief Clerk's Office at least 24 hours prior to the Commission meeting. According to the Chief Clerk's Office, we have two requests to speak at today's regular open meeting.

First up we have Mr. Dean Clough, who should be with us from the Springfield office today.

Mr. Clough, sir, could you please move up and join Mr. -- join Commissioner Colgan there, who's next to you providing you a chair.

1                   MR. CLOUGH:   Thank you.   Thank you.

2                   Ladies and gentlemen, in 2008 the  
3   Illinois Commerce Commission approved an 80 percent  
4   increase in the fixed customer charge for us Ameren  
5   ratepayers.   As a result, we Ameren ratepayers were  
6   hit with higher electric bills in spite of our  
7   efforts to reduce usage.   Now the other regulated  
8   monopoly that provides electricity to Northern  
9   Illinois is seeking to do the same to its customers.  
10   This is awful unfair.

11                  I am one of the Ameren ratepayers  
12   whose electrical bill keeps going up regardless of  
13   where I set the thermostat.   I am here requesting  
14   that you do not do the same to our daughter,  
15   son-in-law and soon-to-be-born grandchild who are CAP  
16   heat customers of the regulated monopoly that is  
17   seeking to increase their fixed rate charge.   Our  
18   daughter and son-in-law are both teachers, not a  
19   high-paying profession, and the proposed increase  
20   will severely impact their family budget just as  
21   their family is about to increase.

22                  Therefore, I urge the Commission to

1 exercise its regulatory powers over the Northern  
2 Illinois Electrical Monopoly and deny its request for  
3 higher charges.

4 In summary, I'm asking please don't  
5 let ComEd do to our children what Ameren has done to  
6 me. Thank you.

7 ACTING CHAIRMAN FLORES: Thank you very much,  
8 Mr. Clough.

9 Next up we have Mr. Stephen Liehr with  
10 us here in Chicago.

11 Mr. Liehr, good morning, sir. If you  
12 could please step up.

13 Mr. LIEHR: Thank you, Commissioners.

14 ACTING CHAIRMAN FLORES: Thank you, Mr. Liehr.

15 MR. LIEHR: I am the Vice-Chairman of the  
16 Kankakee County Board and appear here today at the  
17 request of Board Chairman Mike Bossert. I speak in  
18 opposition to the general water rate increase  
19 requested by Aqua Illinois for the Kankakee region.  
20 This is Case 10-0194.

21 As you know, Kankakee County Board on  
22 February 9, 2010, passed a resolution that opposed

1 and objected to the proposed water rate increase.  
2 The Commission is urged to take -- give serious  
3 consideration to the ability of elected  
4 representatives of the public to speak on behalf of  
5 the public. Public officials are among the first to  
6 learn of the challenges facing citizens.

7 Many residents of Kankakee County have  
8 submitted strong comments about the negative impact  
9 of the proposed rate increase, given current economic  
10 conditions. I wish to share some specific  
11 information about those economic conditions.

12 Kankakee County is currently a place  
13 of low per capita income and high unemployment. In  
14 2008, for example, median household income was  
15 \$49,987 for the county while the state median  
16 household income was \$56,230. In September 2010,  
17 unemployment in Kankakee County was 12 percent while  
18 the state rate was 9.8 percent.

19 Neighboring counties all had lower  
20 unemployment with Grundy at 10.3; Will at 9.2;  
21 Livingston at 9.1. While I have no specific  
22 statistics on foreclosure or threats of foreclosures,

1     this is another economic pressure felt by many. The  
2     excessive rate increase requested by Aqua Illinois  
3     will be a real hardship on many struggling families.

4                     More significant is the recent report  
5     from Aqua America for the quarter ending  
6     September 30, 2010. The report shows record profits  
7     that have created an excessive rate of return. Net  
8     income increased 30.7 percent over the same quarter  
9     in 2009. Even before this report in August, the  
10    Board of Directors had declared a 6.9 percent  
11    dividend increase for December 1, 2010. This is the  
12    20th time in the last 19 years that the dividend had  
13    been increased.

14                    It's reasonable to ask what rate of  
15    return do investors need when many forms of  
16    investment are providing very small returns. Does  
17    Aqua truly need the huge increase that they request  
18    in order to attract investors? I would argue they do  
19    not need the requested increase.

20                    As an elected representative of the  
21    people of Kankakee County, I speak in support of the  
22    recommendations made on behalf of the People of

1 Illinois by the Attorney General, Lisa Madigan. In  
2 the November 12, 2010 report it was recommended that  
3 the Commission use a cost of capital consistent with  
4 the amounts used in earlier cases, ICC Docket 09-0548  
5 and 0549. This was a 7.79 percent overall cost of  
6 capital. There is also agreement that the cost of  
7 capital requested by Aqua far exceeds the costs  
8 reported by its parent. Indeed, Aqua America reports  
9 a very good record despite a purportedly unacceptable  
10 low return on earnings.

11 My request is that the Commission  
12 agree with the Attorney General that a fair balance  
13 of rate and shareholder interests requires the  
14 Commission to reject a return on equity and an  
15 overall cost of capital for Aqua Kankakee that is  
16 higher than the average return on earnings reported  
17 by its parent. It is higher than the return on  
18 earnings recommended by the Commission Staff and  
19 higher than the overall cost of capital allowed in  
20 the Commission's last two water rate increase cases.  
21 This request would ask that the Commission adopt the  
22 return on earnings and overall cost on the capital

1 recommended by Staff Kight-Garlich.

2                   As an aside, I might suggest that at  
3 some point it would be good for Aqua to consider some  
4 education conservation efforts similar to those that  
5 I see when I get my bill from Commonwealth Edison.  
6 Commonwealth Edison inserts various kinds of  
7 conservation techniques that people could use in the  
8 billing notices. I think water companies should  
9 adopt that same policy. And in particular a  
10 suggestion I've seen used at -- or read about used  
11 elsewhere is where a water company will put in their  
12 billing something that allows one resident to compare  
13 how their water usage is to others so that people  
14 that have excessive water usage might be examining  
15 what is creating that excess.

16                   Thank you for your attention.

17           ACTING CHAIRMAN FLORES: Thank you so much,  
18 Commissioner, for taking the time to be here on  
19 behalf of your constituents.

20                   Very well. Moving on to today's  
21 agenda, we'll start with the minutes from previous  
22 Commission meetings. Item No. 1 today is minutes



1 from -- are minutes from the October 20th Bench  
2 Session. I understand that amendments have been  
3 forwarded.

4 I will be making a motion to amend the  
5 minutes.

6 Is there a second?

7 COMMISSIONER FORD: Second.

8 COMMISSIONER O'CONNELL-DIAZ: It's been moved  
9 and seconded.

10 All in favor say "aye."

11 (Chorus of ayes.)

12 ACTING CHAIRMAN FLORES: Any opposed?

13 (No response.)

14 ACTING CHAIRMAN FLORES: The vote is 5-0  
15 amending the minutes.

16 I will make a motion to approve the  
17 minutes, as amended.

18 Is there a second.

19 COMMISSIONER O'CONNELL-DIAZ: Second.

20 ACTING CHAIRMAN FLORES: It's been moved and  
21 seconded.

22 All in favor say "aye."

1 (Chorus of ayes.)

2 ACTING CHAIRMAN FLORES: Any opposed?

3 (No response.)

4 ACTING CHAIRMAN FLORES: The vote is 5-0

5 approving the minutes for October 20th, as amended.

6 Item 2 is -- today are minutes for the

7 October 26th Regular Open Meeting. I understand that

8 amendments have also been forwarded in this matter.

9 I will make a motion to amend the

10 minutes.

11 Is there a second?

12 COMMISSIONER O'CONNELL-DIAZ: Second.

13 ACTING CHAIRMAN FLORES: It's been moved and

14 seconded.

15 All in favor say "aye."

16 (Chorus of ayes.)

17 ACTING CHAIRMAN FLORES: Any opposed?

18 (No response.)

19 ACTING CHAIRMAN FLORES: The vote is 5-0

20 amending the minutes.

21 I will make a motion to approve the

22 minutes, as amended.

1                   Is there a second?

2           COMMISSIONER O'CONNELL-DIAZ:   Second.

3           ACTING CHAIRMAN FLORES:   Its been moved and  
4   seconded.

5                   All in favor say "aye."

6                   (Chorus of ayes.)

7           ACTING CHAIRMAN FLORES:   Any opposed?

8                   (No response.)

9           ACTING CHAIRMAN FLORES:   The vote is 5-0  
10   approving the minutes for October 26th, as amended.

11                   Item 3 is -- for today are minutes for  
12   the October 26th Gas Policy Committee Meeting.  
13   Again, amendments have been forwarded.

14                   I will make a motion to amend the  
15   minutes.

16                   Is there a second?

17           COMMISSIONER O'CONNELL-DIAZ:   Second.

18           ACTING CHAIRMAN FLORES:   It's been moved and  
19   seconded.

20                   All in favor say "aye."

21                   (Chorus of ayes.)

22           ACTING CHAIRMAN FLORES:   Any opposed?

1 (No response.)

2 ACTING CHAIRMAN FLORES: The vote is 5-0

3 amending the minutes.

4 I will make a motion to approve the

5 minutes, as amended.

6 Is there a second?

7 COMMISSIONER O'CONNELL-DIAZ: Second.

8 ACTING CHAIRMAN FLORES: Thank you. It's been

9 moved and seconded.

10 All in favor say "aye."

11 (Chorus of ayes.)

12 ACTING CHAIRMAN FLORES: Any opposed?

13 (No response.)

14 ACTING CHAIRMAN FLORES: The vote is 5-0

15 approving the minutes for the October 26th Gas Policy

16 Committee Meeting, as amended.

17 Item 4 for today concerns a release of

18 minutes of certain past meetings which were held in

19 closed session. These have been reviewed by our

20 Office of General Counsel and these are minutes from

21 sessions which apparently do not concern ongoing

22 litigation or personnel issues.

1                   Is are there any discussion?

2                   (No response.)

3           ACTING CHAIRMAN FLORES: I will make a motion

4 to release these minutes.

5                   Is there a second?

6           COMMISSIONER O'CONNELL-DIAZ: Second.

7           COMMISSIONER FORD: Second.

8           ACTING CHAIRMAN FLORES: It's been moved and

9 seconded.

10                  All in favor say "aye."

11                  (Chorus of ayes.)

12           ACTING CHAIRMAN FLORES: Any opposed?

13                  (No response.)

14           ACTING CHAIRMAN FLORES: The vote is 5-0 and

15 the minutes will be released.

16                  We will use this 5-0 vote for the

17 remainder of the regular open meeting unless

18 otherwise noted.

19                  Moving on to Item 5, this is Docket

20 No. 10-0138. We will hold this item for disposition

21 at a future Commission meeting. There has also been

22 a request for oral argument made in this docket and

1 the Commission plans to hold oral argument in this  
2 matter at 2:00 p.m. on Thursday, December 2nd. And I  
3 believe we'll be doing this via videoconference as  
4 Commissioners Elliott and Colgan plan to participate  
5 from the Springfield office. We will send an  
6 official notice out to the parties regarding the  
7 scheduling of this oral argument sometime later  
8 today.

9 JUDGE SAINSOT: Mr. Chairman, I think I'm  
10 required by law to tell you whether there have been  
11 any comments in this case. There have been none as  
12 of about an hour ago.

13 ACTING CHAIRMAN FLORES: Okay. Very well.  
14 Thank you.

15 Item 6 is Docket No. 10-0173. This is  
16 a petition by Ameren IP, Ameren Illinois Transmission  
17 Company for authorization to use eminent domain under  
18 Section 8-509 of the Public Utilities Act to obtain  
19 an easement for the construction of a transmission  
20 line in LaSalle County. Administrative Law Judge  
21 Albers recommends that the Commission enter an Order  
22 granting the requested relief.

1                   Commission Elliott, I believe you have  
2   some revisions here.

3           COMMISSIONER ELLIOTT:   Yes, Mr. Chairman.  I  
4   had circulated some revisions to the conclusion  
5   softening a little bit of the language surrounding  
6   the Staff investigation into inquiries of  
7   interactions with homeowners.

8           ACTING CHAIRMAN FLORES:   Very well.

9           COMMISSIONER ELLIOTT:   And I would move those  
10  changes.

11          ACTING CHAIRMAN FLORES:   Very well.

12                   I will second the Commissioner's  
13  motion.

14                   It's been moved and second.

15                   All in favor say "aye."

16                               (Chorus of ayes.)

17          ACTING CHAIRMAN FLORES:   Any opposed?

18                               (No response.)

19          ACTING CHAIRMAN FLORES:   The vote is 5-0 and  
20  Commissioner Elliott's revisions are adopted.

21                   I will make a motion to enter the  
22  Order, as amended, by Commissioner Elliott's

1 revisions.

2 Is there a second?

3 COMMISSIONER O'CONNELL-DIAZ: Second.

4 COMMISSIONER ELLIOTT: Second.

5 ACTING CHAIRMAN FLORES: It's been moved and  
6 seconded.

7 All in favor say "aye."

8 (Chorus of ayes.)

9 ACTING CHAIRMAN FLORES: Any opposed?

10 (No response.)

11 ACTING CHAIRMAN FLORES: The vote is 5-0 and  
12 the Order, as amended, is entered.

13 Docket No. -- or Item 7 is Docket No.  
14 10-0373. This is DM & Associate Energy's application  
15 for licensure as an agent, broker and consultant  
16 under Section 16-115(c) of the Public Utilities Act.  
17 Administrative Law Judge Yoder recommends entry of an  
18 Order granting the requested Certificate of Service  
19 Authority.

20 Is there any discussion?

21 (No response.)

22 ACTING CHAIRMAN FLORES: Any objections?



1 (No response.)

2 ACTING CHAIRMAN FLORES: Hearing none, the  
3 Order is entered and the certificate is granted.

4 Item 8 is Docket No. 10-0385. This  
5 docket concerns ComEd's petition under Section 4-101  
6 of the Public Utilities Act or in the alternative  
7 under Section 8-406 of the Act for authorization to  
8 conduct transmission and infrastructure upgrades here  
9 in Chicago. Administrative Law Judge Sainsot  
10 recommends that the Commission enter an Order  
11 granting the requested relief under Section 4-101 of  
12 the Act.

13 Any discussion?

14 (No response.)

15 ACTING CHAIRMAN FLORES: Any objections?

16 (No response.)

17 ACTING CHAIRMAN FLORES: Hearing none, the  
18 Order is entered.

19 Item 9 is Docket No. 10-0541. This is  
20 a petition by the Ameren Illinois utilities  
21 requesting permission from the Commission to amend  
22 protocols utilized when engaging in short-term

1 capacity transactions, specifically for short-term  
2 capacity procurement. Administrative Law Judge  
3 Albers recommends that the Commission enter an Order  
4 granting the requested relief.

5 Any discussion?

6 (No response.)

7 ACTING CHAIRMAN FLORES: Any objections?

8 (No response.)

9 ACTING CHAIRMAN FLORES: Hearing none, the  
10 Order is entered.

11 Item 10 is Docket No. 10-0554. This  
12 item concerns a complaint as to billing and/or  
13 charges by Dottie Putignano against ComEd. The  
14 parties have apparently settled their differences and  
15 brought a Joint Motion to Dismiss, which  
16 Administrative Law Judge Riley recommends that we  
17 grant.

18 Is there any discussion?

19 (No response.)

20 ACTING CHAIRMAN FLORES: Any objections?

21 (No response.)

22 ACTING CHAIRMAN FLORES: Hearing none, the

1 Joint Motion to Dismiss is granted.

2 Item 11 is Docket No. 10-0556. This  
3 item is Affiliate Power Purchasers International's  
4 application for licensure as an agent, broker and  
5 consultant under Section 16-115(c) of the Public  
6 Utilities Act. Administrative Law Judge Yoder  
7 recommends entry of an Order granting the requested  
8 certificate of service authority.

9 Any discussion?

10 (No response.)

11 ACTING CHAIRMAN FLORES: Any objections?

12 (No response.)

13 ACTING CHAIRMAN FLORES: Hearing none, the  
14 Order is entered and the certificate is granted.

15 Item 12 will be held for disposition  
16 at a future date.

17 Item 13 concerns alleged violations by  
18 the Bushnell Municipal Gas Utility for failure to  
19 comply with federal safety standards for the  
20 transmission of natural gas. Staff recommends the  
21 Commission enter a Citation Order initiating  
22 proceeding against the company.

1                   Is there any discussion?

2                   (No response.)

3           ACTING CHAIRMAN FLORES:   Any objections?

4                   (No response.)

5           ACTING CHAIRMAN FLORES:   Hearing none, the  
6   Citation Order is entered.

7                   Item 14 is Docket No. 06-0752 and  
8   07-0312 consolidated.   These items concerns People's  
9   Gas reconciliation of revenues collected under gas  
10   adjustment charges with actual costs prudently  
11   incurred.   Administrative Law Judge Baker recommends  
12   that the Commission entered an Order approving the  
13   reconciliation.

14                   Any discussion?

15                   (No response.)

16           ACTING CHAIRMAN FLORES:   Any objections?

17                   (No response.)

18           ACTING CHAIRMAN FLORES:   Hearing none, the  
19   Order is entered.

20                   Item 15 is Docket No. 09-0542.   This  
21   item is MidAmerican's purchased gas adjustment  
22   reconciliation proceeding.   Administrative Law Judge

1 Gilbert recommends that the Commission enter an Order  
2 approving the reconciliation.

3 Any discussion?

4 (No response.)

5 ACTING CHAIRMAN FLORES: Any objections?

6 (No response.)

7 ACTING CHAIRMAN FLORES: Hearing none, the  
8 Order is entered.

9 Items 16 and 17 will be taken  
10 together. These items concern customer complaints as  
11 to billing and/or charges brought against Nicor. In  
12 each case the parties have apparently settled their  
13 differences and brought a Joint Motion to Dismiss  
14 which the Administrative Law Judge recommends that we  
15 grant.

16 Any discussion?

17 (No response.)

18 ACTING CHAIRMAN FLORES: Any objections?

19 (No response.)

20 ACTING CHAIRMAN FLORES: Hearing none, the  
21 Joint Motions to Dismiss are granted.

22 Item 18 is Docket No. 10-0447. This

1 item concerns a petition by Peoples Gas and North  
2 Shore Gas to have the Commission issue an Order  
3 terminating the reporting requirements that were set  
4 forth in Docket Nos. 01-0706 and 01-0707. The  
5 Companies now wish to withdraw their petition and  
6 Administrative Law Judge Sainsot recommends that this  
7 docket be dismissed without prejudice.

8 Any discussion?

9 (No response.)

10 ACTING CHAIRMAN FLORES: Any objections?

11 (No response.)

12 ACTING CHAIRMAN FLORES: Hearing none, the  
13 docket is dismissed.

14 Item 19 will be held and will be  
15 disposed of at a future hearing.

16 Item No. 20 is Docket No. 10-0452.

17 This item concerns Cricket's application for  
18 designation as an eligible telecommunications carrier  
19 under Section 214(e)(2) of the Communications Act of  
20 1934, as amended, by the Telecommunications Act of  
21 1996. Administrative Law Judge Riley recommends that  
22 the Commission enter an Order granting the requested

1 relief.

2 Any discussion?

3 (No response.)

4 ACTING CHAIRMAN FLORES: Any objections?

5 (No response.)

6 ACTING CHAIRMAN FLORES: Hearing none the Order  
7 is entered.

8 Item 21 is Docket No. 10-0594. This  
9 item concerns a petition by the Kane County Emergency  
10 Telephone System Board seeking authorization to  
11 modify the City of Aurora's 911 Emergency Telephone  
12 Number System. Administrative Law Judge Haynes  
13 recommends the Commission enter an Order granting the  
14 requested relief.

15 Is there any discussion?

16 (No response.)

17 ACTING CHAIRMAN FLORES: Any objections?

18 (No response.)

19 ACTING CHAIRMAN FLORES: Hearing none, the  
20 Order is entered.

21 Item 22 is Docket No. 10-0617. This  
22 item concerns a petition by the Village of Alsip

1 concerning modification to its 911 Emergency Response  
2 System reinstating the system that was in place  
3 before the Village of Crestwood was part of the  
4 system. Administrative Law Judge Haynes recommends  
5 that the Commission enter an Order granting the  
6 requested relief.

7 Is there any discussion?

8 (No response.)

9 ACTING CHAIRMAN FLORES: Any objections?

10 (No response.)

11 ACTING CHAIRMAN FLORES: Hearing none, the  
12 Order is entered.

13 Item 23 is Docket No. 10-0618. This  
14 item concerns a petition by the Southwest Central 911  
15 concerning adding the Village of Crestwood into the  
16 system. Administrative Law Judge Haynes recommends  
17 that the Commission enter an Order granting the  
18 requested relief.

19 Any discussion?

20 (No response.)

21 ACTING CHAIRMAN FLORES: Any objections?

22 (No response.)



1           ACTING CHAIRMAN FLORES:   Hearing none, the  
2   Order is entered.

3                   Item 24 is Docket No. 10-0623.   This  
4   item concerns a petition by Naperville 911 Center  
5   regarding modifications to the backup public safety  
6   answering point of its system.   Administrative Law  
7   Judge Haynes recommends that the Commission enter an  
8   Order granting the requested relief.

9                   Any discussion?

10                                   (No response.)

11           ACTING CHAIRMAN FLORES:   Any objections?

12                                   (No response.)

13           ACTING CHAIRMAN FLORES:   Hearing none, the  
14   Order is entered.

15                   Item 25 concerns Liberty's Seventh  
16   Quarterly Report:   Interim Verification Report and  
17   Investigation of Peoples Gas Pipeline Safety Program.

18                   Staff?

19           MR. STUTSMAN:   Good morning.   I'm John Stutsman  
20   and I'm the project manager on this project.   And  
21   I -- about a month ago I had sent you a copy of  
22   Liberty's Verification Report Investigation of

1 Peoples Gas Pipeline Safety Program, their seventh  
2 quarterly report. Staff asked that the Commission  
3 accept the Liberty Quarterly Report and direct Staff  
4 to post the report on the Commission's Website.

5 If you have any questions, I'd be  
6 happy to respond.

7 ACTING CHAIRMAN FLORES: Any questions?  
8 Comments?

9 (No response.)

10 ACTING CHAIRMAN FLORES: Very well.

11 Well, I just wanted to say thank you  
12 so much for the ongoing reports that are generated.  
13 They're, obviously, long and -- but, you know, this  
14 is an important matter. We want to make sure that we  
15 maintain a very close watch and that we continue to  
16 monitor compliance. So -- thank you so much. Keep  
17 up the good work.

18 I'm going to make a motion to accept  
19 the report and post the report on the Commission's  
20 website.

21 Is there a second?

22 COMMISSIONER FORD: Second.

1           COMMISSIONER ELLIOTT:   Second.

2           ACTING CHAIRMAN FLORES:   It's been moved and  
3   seconded.

4                   All in favor say "aye."

5                           (Chorus of ayes.)

6           ACTING CHAIRMAN FLORES:   Any opposed?

7                           (No response.)

8           ACTING CHAIRMAN FLORES:   The vote is 5-0.   The  
9   Report is accepted and will be posted on the  
10   Commission's website.

11                   Again, we want to thank everyone for  
12   their hard work on this.

13                   Item 26 concerns a proposal letter to  
14   the PJM Board of Managers concerning capacity  
15   procurement.

16                   Do we have someone from Staff?   Is  
17   that Randy?

18           MR. RISMILLER:   Yes.

19           ACTING CHAIRMAN FLORES:   Good morning, sir.

20           MR. RISMILLER:   Good morning.   This is Randy  
21   Rismiller in Springfield.

22                   You have before you a draft of a

1 letter, and as with many of these PJM issues, its  
2 sort of an obscure issue with potentially large  
3 consequences. So I will try to describe a bit of the  
4 background and some of the context for this letter.

5               As you know, PJM uses the RPM program  
6 to procure capacity three years forward. When a  
7 generated resource clears the RPM option, it incurs  
8 an obligation to offers into PJM's energy market  
9 every hour of the year except when the cases it's on  
10 outages. When a demand response resource clears the  
11 RPM option, it incurs a more limited obligation,  
12 specifically to respond when called upon by PJM  
13 during an emergency and to be ready no more than 10  
14 times during the summer for no longer than 6 hours  
15 per call. And it's this limitation, particularly the  
16 6 hours per call, that is sort of a key to the  
17 problem here. In the most recent PJM auction about  
18 9,000 megawatts of demand response cleared. That's  
19 out of a total of around 150,000 or so. So it's a  
20 significant, significant amount.

21               Just the way this thing works, the  
22 more demand response resources that clear in the RPM

1 auction, the fewer generated resources that can be  
2 cleared. They replace each other one for one. PJM,  
3 therefore, is concerned that under the current RPM  
4 program design it could result in procuring what  
5 they're considering to be too much demand response  
6 and not enough generating resource, therefore,  
7 creating what they consider a potential reliability  
8 issue, particularly when peaks last longer than 6  
9 hours.

10 PJM's proposed solution is to develop  
11 a minimum procurement target for generating resources  
12 and other resource that are always on call, types of  
13 resources that PJM calls unlimited. Once the  
14 unlimited resource target is calculated, it can be  
15 implemented either in the base residual auction or in  
16 the incremental auctions or both. The result of  
17 implementing the target in the base auction could be  
18 a significant price increase paid to the unlimited  
19 resources and a significant increase in total overall  
20 costs of the RPM program. And the reason for that,  
21 the way the math works out is that the amount of  
22 unlimited resources which will be procured and paid a

1 premium is proportionately greater than the amount of  
2 the limited resources, the demand response primarily,  
3 which will be procured and paid less.

4               So PJM recognizes this cost impact of  
5 their proposal, and, consequently, PJM is  
6 proposing -- their proposal is procure the target  
7 using both the base auction and the incremental  
8 auction. But the way it works is they're proposing  
9 to procure 97 1/2 percent of the target at the base  
10 auction, only 2 1/2 percent of the target in the  
11 incremental auction. And so because of those splits  
12 and percentages it only will have a minor effect on  
13 mitigating the total overall costs.

14               Using the target exclusively in the  
15 incremental auctions would result in a significantly  
16 lower cost, and the letter recommends using this  
17 approach. The letter also acknowledges that there  
18 could be downsides to using the incremental auction  
19 approach in the constrained location of  
20 deliverability areas, which are primarily in the east  
21 and acknowledges the possibility that PJM may want to  
22 choose one of the other two options in those eastern

1     ares, but still recommends the incremental auction  
2     approach for the -- what they call the rest of the  
3     RTO, which includes the Commonwealth Edison area.

4                     PJM's Board is proposing to -- as I  
5     understand it, to consider this matter at their  
6     meeting on December 1st and make a decision as to  
7     what to file with the FERC. They plan to make a FERC  
8     filing, as I understand it, also on December 1st. So  
9     this letter is proposed to go to Mr. Schneider, who  
10    is Chairman of the PJM Board of Mangers, urging him  
11    to consider the cost impacts of this issue and  
12    consider implementing this alternative approach in  
13    the rest of the RTO region where Commonwealth Edison  
14    is.

15                    So we're asking permission to send  
16    this letter.

17                    ACTING CHAIRMAN FLORES: Any questions?  
18    Comments?

19                    COMMISSIONER ELLIOTT: Yeah, I was just  
20    thinking, is any other states doing something  
21    similar?

22                    MR. RISMILLER: Not that I know of.

1           COMMISSIONER ELLIOTT:   Okay.   On a sort of an  
2   ancillary note, the PRD -- the Price Responsive  
3   Demand issue, one of the submeetings to the Market  
4   Committee -- it didn't even make it to Market  
5   Committee, I guess.

6           MR. RISMILLER:   That's right.   It's a separate  
7   issue, somewhat related.

8           COMMISSIONER ELLIOTT:   Somewhat related but  
9   it's, again, a disturbing trend from my perspective  
10   that these things are being treated so poorly.   And I  
11   know several of the Commissions wrote letters in  
12   response to that particular issue --

13          MR. RISMILLER:   Yes.

14          COMMISSIONER ELLIOTT:   -- at least four or  
15   five.   And I was just wondering if we can get them  
16   to -- I don't know if there's a timeliness issue here  
17   or -- but it seems to me that trying to become -- or  
18   at least show some consistent front here might be  
19   worthwhile as opposed to the lone state that's --

20          COMMISSIONER FORD:   Commissioner Elliott, it is  
21   a timely issue in this one because Randy just sent it  
22   to me yesterday --



1           COMMISSIONER ELLIOTT:  Yeah.  Yeah.  Exactly.

2           COMMISSIONER FORD:  -- put it on an OPSI

3   schedule.  But Maryland and -- did send a letter of

4   support, and they did -- the OPSI Board adopted it.

5   We abstained because it did not come before us and

6   that -- we were at the meeting.  So there are letters

7   on this, a little estranged from what we're talking

8   about.  But there are letters going out from OPSI

9   on RPM.

10          COMMISSIONER ELLIOTT:  Good.  The more the

11   merrier.

12          MR. RISMILLER:  There are a couple of issues

13   going on --

14          COMMISSIONER FORD:  I know.

15          MR. RISMILLER:  -- Commissioner Ford is

16   correct.  The Maryland letter and the OPSI letter and

17   a number of numerous states submitted a letter to the

18   Board on which particular products -- demand response

19   products should PJM create and allow to participate

20   in this demand response saturation issue.  So it's

21   related to this letter but not exactly the same.

22                   As for -- on the price responsive

1 demand issue, that's a different one --

2 COMMISSIONER ELLIOTT: Right.

3 MR. RISMILLER: -- and you're right, the  
4 Members Committee did not issue up in any significant  
5 way. And PJM has decided what they will do is  
6 reconsider that matter internally within PJM Staff  
7 and take it directly to the PJM Board of Directors in  
8 February. So there will be an opportunity to weigh  
9 in on the price responsive demand issue. In fact,  
10 Raj Barua, Executive Director of OPSI, has drafted a  
11 letter regarding price responsive demand and that is  
12 pending for consideration at this point. So there  
13 are actions being taken on that issue as well.

14 COMMISSIONER ELLIOTT: Just like to see the  
15 producer-consumer surplus be a little more balanced.

16 Thanks, Randy.

17 ACTING CHAIRMAN FLORES: Any further questions  
18 or comments?

19 (No response.)

20 ACTING CHAIRMAN FLORES: Very well. Thank you  
21 so much.

22 So the letter will be finalized and

1 sent? If you direct, I will make a motion.

2 COMMISSIONER ELLIOTT: Very well, I will second

3 that motion.

4 All in favor say "aye."

5 (Chorus of ayes.)

6 ACTING CHAIRMAN FLORES: Any opposed?

7 (No response.)

8 ACTING CHAIRMAN FLORES: The vote is 5-0 so we

9 can get that going. Thank you.

10 Item 27 is a FERC matter and that

11 concerns pending litigation. So we'll go into closed

12 session to address that, please.

13 I will make a motion to go into closed

14 session.

15 Is there a second?

16 COMMISSIONER FORD: So moved.

17 ACTING CHAIRMAN FLORES: It's been moved and

18 seconded.

19 All in favor say "aye."

20 (Chorus of ayes.)

21 ACTING CHAIRMAN FLORES: Any opposed?

22 (No response.)

1           ACTING CHAIRMAN FLORES: The vote is 5-0 to go  
2   into closed session.  
3                               (Whereupon, at this point  
4                               Pages 37-40 of the proceedings  
5                               are contained in a separate  
6                               closed transcript.)  
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1                                    CONTINUATION OF PROCEEDINGS

2                    ACTING CHAIRMAN FLORES:    In closed session the  
3                    Commission discussed making filings with FERC in FERC  
4                    Docket No. ER 10-1791-000, the multi-value project  
5                    transmission cost allocation case.

6                                    I will make a motion to make the  
7                    filings with the FERC.

8                                    Is there second?

9                    COMMISSIONER O'CONNELL-DIAZ:    Second.

10                    ACTING CHAIRMAN FLORES:    It's been moved and  
11                    seconded.

12                                    All in favor say "aye."

13                                    (Chorus of ayes.)

14                    ACTING CHAIRMAN FLORES:    Any opposed?

15                                    (No response.)

16                    ACTING CHAIRMAN FLORES:    The vote is 5-0.    The  
17                    motion and comments will be filed with FERC.

18                                    Judge Wallace, are there any other  
19                    matters to come before the Commission today?

20                    JUDGE WALLACE:    No, there's not, Mr. Chairman.

21                    ACTING CHAIRMAN FLORES:    Very well, sir.    Thank  
22                    you so much.

1                   Hearing none, this meeting stands  
2    adjourned.

3                                 MEETING ADJOURNED

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